

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 09/30/2024

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JOHN ADRIAN TORRES,

Plaintiff,

-v-

UNIVERSAL MUSIC GROUP N.V. and UNIVERSAL
CITY STUDIOS LLC,

Defendants.
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24-cv-5323 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Defendants Universal Music Group N.V. and Universal City Studios LLC (“Defendants”) move to dismiss the pro se complaint of Plaintiff John Adrian Torres (“Plaintiff”), pursuant to Federal Rule of Civil Procedure 12(b)(6), for failure to state a claim for relief and, pursuant to the Court’s inherent authority, for perpetrating a fraud upon the Court. Dkt. No. 33.

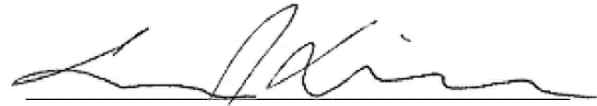
The motion refers to matters outside the pleadings, *see* Dkt. No. 34 at 26, 28-29; Dkt. Nos. 35-37, but Defendants have not complied with Local Civil Rule 12.1 with respect to motions to dismiss that refer to matters outside the pleadings, *see* Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, Rule 12.1.

Accordingly, Defendants’ motion is denied with leave to refile the motion with the appropriate Local Civil Rule 12.1 notice on or before October 7, 2024. *Hester-Bey v. Eastern Dist. Court Officer*, 2014 WL 1761028, at *4 (E.D.N.Y. Apr. 9, 2014) (court could not rely on affidavit where party failed to file required notice under Local Civil Rule 12.1); *see also McDay v. Paterson*, 2010 WL 4456995, at *3–4 (S.D.N.Y. Nov. 1, 2010) (noting that notice under Local Rule 12.1 is required); *May v. Levy*, 2022 WL 3220368, at *3 n.10 (E.D.N.Y. May 12, 2022)

(same); *cf. Makhnevich v. MTGLQ Investors, L.P.*, 2021 WL 3406484, at *4 n.4 (S.D.N.Y. Aug. 4, 2021) (failure to provide notice required under Rule Local Rule 12.1 is not fatal to a motion to dismiss only where pro se plaintiff was already clearly aware of her rights and not prejudiced).

SO ORDERED.

Dated: September 30, 2024
New York, New York


LEWIS J. LIMAN
United States District Judge